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REMARKS

Examiner Goff is thanked for his courtesy in granting a personal interview to the inventor and the undersigned on June 29, 2007. The rejections of record were discussed as well as the prior art. It was agreed that an Amendment would be submitted which would point out that the labels pointed out in the claims would be identified as patch labels and that the rejection would be reconsidered.

In paragraph 3 of the Office Action, claim 49 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Reconsideration is requested.

Claim 49 has been amended to adopt the language that was proposed by the Examiner. For this reason, it is requested that this ground of rejection be withdrawn.

In paragraph 4 of the Office Action, claims 49 and 50 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Reconsideration is requested.

This ground of rejection was directed to the absence of a recitation of "units" with regard to the density of the polymer. It is believed that density is universally expressed without units because the density is related to the weight of a volume of one ml water which is 1.0. Any determination of density is expressed as a ratio of the density of water and no unit is required. For this reason, it is requested that this

In paragraph 6 of the Office Action, Claims 25-36 and 38-47 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dronzek (WO/1990/019412 in view of Amberg '640.

Reconsideration is requested.

The Petition for the benefit of the earlier application has been granted and it is believed that this ground of rejection has been rendered moot.

In paragraph 7 of the Office Action, claims 25, 47, 49 and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jannusch in view of Amberg.

Reconsideration is requested.

The Jannusch patent has been utilized as the primary reference in combination with the Amberg patent. It is submitted that the teachings of these patents are so divergent that one of ordinary skill in the art would not combine the teachings for any purpose whatsoever. The text of amended claim 25 points out a microvoided patch label which further distinguishes the claimed invention from the prior art. The term "patch label" is well known in the art and it is described in the present specification at page 4, line 36 and in Examples 1-3.

Jannusch, at col. 8, line 38, mentioned polystyrene as the only example of a plastic. No mention was made of the use of polypropylene which is pointed out in applicant's claims 47 and 48.

Jannusch does not mention the use of any foamed plastic substrate as a label and makes no reference to the use of a heat shrinking technique in connection with the use of the Jannusch water based adhesive. It is not seen how the heat shrinking application process of Amberg could be used with the water based adhesives of Jannusch. There is no teaching or suggestion in Amberg that would lead a skilled artisan to use a water based adhesive in place of the hot melt-heat shrinking method of applying a label. In addition, Amberg is limited to the use of a sleeve applied neck label, which does not teach the application of a patch label, as pointed out in the amended

claims. In addition, Jannusch does not mention any type of a microvoided or foam label label. Only by hindsight can Jannusch and be combined with Amberg because Amberg is only concerned with the application of a shrink wrapped sleeve with is "positioned" with a hot melt adhesive. Moreover, Jannusch is silent as to the use of any label substrate which allows water to migrate into the label.

The Jannusch patent is limited to a labeling system which must use a caustic sensitive labeling adhesive that contains an active metal such as aluminum. The metal component is added to make the adhesive debonding in the presence of a strong base. The labels that are disclosed in Example XIII, are paper and the only containers that are actually labeled are glass containers. There is no disclosure in Jannusch of any polymeric label having a density of less than 0.9. Claim 49 points out a method of labeling a plastic with a patch label which is not disclosed by Amberg or Jannusch while claim 50 points out particular polymeric materials having a density of less than 0.55-0.85 for labeling plastic containers as disclosed at page 9, line 14 of the specification. These materials are not disclosed or contemplated by Jannusch or Amberg. Amberg only discloses glass containers (col.1, line 11). The heat shrinking step required by Amberg would exclude the use of plastic bottles as pointed out in claim 49.

Jannusch is defective as a primary reference because it lacks a teaching of anything that would an artisan to combine the teachings of that reference with Amberg. The deficiency in the Jannusch patent is that patent is only concerned with the use of an adhesive which contains an active metal that functions to make the adhesive debonding in the presence of a strong base. The labels that are disclosed in Jannusch, in Example XIII, are paper and the plastic labels that are mentioned are not disclosed as having a low density of below 0.9.

The Amberg patent describes a labeling system which is based on the use of a foamed plastic which is shrink wrapped

around a neck of a glass bottle. The foamed label may be applied with an adhesive prior to the assembly of a sleeve. The only adhesive that is disclosed in this patent is a "hot melt adhesive" (col. 8, lines 58-59). The hot melt adhesive does not result in a label which has a dried water based adhesive as pointed out in the amended claims. There is no mention as to whether or not the Amberg labels are even open celled foamed materials that could, if treated with a water based adhesive, have the adhesive taken in the open foam.

A further reason why it is not proper to combine the teachings of Jannusch and Amberg because Jannusch is that Amberg is only concerned with non-foamed materials that are not even mentioned by Jannusch. For these reasons, it is requested that this ground of rejection be withdrawn.

In paragraph 8 of the Office Action, claims 25-36, 38 and 43-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jannusch and Amberg and in further view of Navikas. In paragraph 9 of the Office Action, claims 39-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jannusch in view of Amberg and in further view of Navikas and further in view of Kelly.

Reconsideration is requested.

The deficiencies of Jannusch and Amberg have been pointed out above. Navikas is concerned with coating plastic surfaces with an organic solvent based composition to provide a place for a label with a water base adhesive to stick. There is no disclosure of the material that was used to make the labels and no disclosure of the use of a polymer label or a microvoided polymer in Navikas. The problems of "tack" and "label swimming" which are disclosed at page 6 of the present specification were not disclosed by Navikas. It is believed that polymer label stocks were not used in 1953 which is the filing date of the Navikas patent and Navikas does not disclose the use of a polymeric label. Nothing in any of the cited references provides a teaching or direction that supports the present combination of references.

The Kelly patent is limited to a disclosure of the use of slip aids in combination with labels that are not made of low density polymers. Nothing in Kelly teaches how to apply a microvoided polymer label to a container. For these reasons, it is requested that this ground of rejection be withdrawn.

An early and favorable action is earnestly solicited.

Respectfully submitted,



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